IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. LONNIE NEIL PEERY, Appellant.	No. 37315-7-II UNPUBLISHED OPINION

Hunt, J. — Lonnie Neil Perry appeals his jury conviction for first degree assault. He argues that the State did not provide sufficient evidence to convict him. We affirm.

FACTS

I. BACKGROUND

On January 31, 2006, Luis Colon was in his house in Tacoma when he heard an argument between a man and a woman coming from the alley behind his house. Colon then heard a gunshot in the alley. Shortly thereafter, Kari Strait called her friend Donna Gasman and told Gasman that Lonnie Peery had shot her. Strait also told Gasman that she was on her way to a friend's house and that Gasman needed to come pick her up.

When police responded to the shooting scene, they found a .45 caliber shell casing, fresh blood, and a man's watch. When police and paramedics were dispatched to a house, they found Strait with a gunshot wound in her leg, and took her to a hospital. At the hospital, Strait told the physician who treated her that she had been shot at close range with a .45 caliber handgun. Consistent with Strait's explanation, one of her physicians, Dr. Lawson, determined that Strait's injuries were caused by a gun shot at close range. X-rays showed that the gunshot had fractured Strait's femur.

Social worker Jessica Kuculyn contacted Strait in the hospital because Strait had no medical insurance. Strait told Kuculyn, "My boyfriend was threatening me with a gun. We had been arguing and he shot me in the left leg with a .45." Report of Proceedings (RP) Vol. 2 at 133-34. Although she was on medication, Strait was able to follow the conversation, to answer Kuculyn's questions, and to ask Kuculyn questions. Based on Strait's answers to her (Kuculyn's) questions, Kuculyn filled out a crime victim's application to pay for Strait's medical expenses. Kuculyn gave the completed form to Strait to review, which she did before signing it.

After her release from the hospital, Strait stayed at Gasman's house. During Peery's frequent visits, Gasman overheard Peery apologize several times to Strait for shooting her.

On April 3, 2006, police interviewed Strait about an unrelated murder. The interviewing detective, David DeVault, noticed that she had a considerable limp and asked what had happened to her leg. Strait told him that Peery had shot her.

II. PROCEDURE

The State charged Peery with one count of first degree assault while armed with a firearm.

At trial, Colon, Kuculyn, Gasman, and De Vault testified to the facts set forth above. Strait testified that she had been in the alley alone the night she was shot, that she had been arguing with Peery on her cell phone just before she was shot, but that she did not know who had shot her. The jury found Peery guilty as charged, with a firearm enhancement.

Peery appeals.

ANALYSIS

Peery argues that the evidence was insufficient to prove beyond a reasonable doubt that he was guilty because the witnesses who testified that Strait had told them that Peery had shot her were not credible. We disagree.

I. STANDARD OF REVIEW

In determining whether evidence is sufficient in a criminal case, we examine whether, after viewing evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. *State v. Green*, 94 Wn.2d 216, 220-22, 616 P.2d 628 (1980). A claim of insufficiency admits the truth of the State's evidence and all reasonably drawn inferences. *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254, *aff'd* 95 Wn.2d 385 (1980). *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

Credibility determinations are for the trier of fact and are not subject to review. *State v. Thomas*, 150 Wn.2d 821, 874, 83 P.3d 970 (2004) (citing *State v. Camarillo*, 115 Wn.2d 60, 71, 794 P.2d 850 (1990)). We defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. *Thomas*, 150 Wn.2d at 874-75 (citing *State v. Cord*, 103 Wn.2d 361, 367, 693 P.2d 81 (1985)).

II. SUFFICIENT EVIDENCE

"A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm: [a]ssaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death." RCW 9A.36.011(1)(a). Testimony supports each element of this offense, thus providing sufficient evidence to support Peery's conviction. And because the jury's credibility determinations are not subject to our review, we do not re-evaluate any witness's credibility.

Colon testified that he heard a man and a woman arguing in the alley behind his home, and then he heard a gunshot. Police later found blood, a .45 shell casing, and a man's watch in that same alley. Although at trial Strait testified that she did not know who had shot her, she had previously told multiple people that it was Peery who shot her in the alley behind Colon's home. Among these people was the treating physician at the hospital, to whom Strait explained that Peery had shot her at close range. Strait had also told Kuculyn that Peery had been threatening her before he shot her.

Furthermore, when Peery visited Strait at Gasman's home, Gasman heard him admit to having shot Strait multiple times. Nothing in the record suggests that the shooting was anything other than intentional. Shooting someone with a gun at close range, as Peery shot Strait, is clearly "likely to produce great bodily harm or death." RCW 9A.36.011(1)(a). And it is uncontroverted that the gunshot produced substantial injury to Strait's leg.

Interpreting the facts in the light most favor of the State, as we must,[1] we hold that there

[1] *Green*, 94 Wn.2d at 220-22.

was sufficient evidence to support (1) the jury's finding beyond a reasonable doubt that Peery intended to cause death or great bodily injury to Strait when he shot her with a .45 caliber handgun, and (2) Peery's first degree assault conviction and firearm enhancement.

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Hunt, J.

We concur:

Houghton, P.J.

Bridgewater, J.